

Before the Federal Communications Commission
Washington, D.C. 20554

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FEDERAL COMMUNICATIONS COMMISSION
OFFICE OF THE SECRETARY

In the Matter of:

Connecticut Department of Public Utility
Control Petition for Rulemaking

RM No. 9258

Comments of AirTouch Communications, Inc.

AirTouch Communications, Inc. ("AirTouch")¹, hereby submits its comments in response to the Public Notice regarding a Connecticut Department of Public Utility Control ("Connecticut") "Petition for an Amendment to Rulemaking." ("Petition"). Connecticut asks the Commission to revisit and amend its earlier decisions prohibiting technology-specific or service-specific area code overlays.

The principles established by the Commission in the Ameritech Order and the Local Competition Second Order remain valid. The Telecommunications Act of 1996 established, and the Commission's decisions implement, the principle that that all telecommunications carriers must be afforded equitable and non-discriminatory access to numbers.² The Ameritech Order held that any area code overlay plan that excludes or segregates particular carriers or particular services violates the Communications Act.³ In

¹ AirTouch is a CMRS provider with interests in cellular, paging, PCS and mobile satellite services, both domestic and international.

² See, e.g., 47 U.S.C. § 251(e)(1).

³ Declaratory Ruling and Order, 10 FCC Rcd 4596 (1995) ("Ameritech Order").

the Local Competition Second Order, the Commission reiterated that the Ameritech Order prohibits service-specific overlays, and held that service-specific and technology-specific overlays do not further the federal policy objectives of the North American Numbering Plan.⁴

As these decisions recognize, wireless-only overlays are unreasonably discriminatory because they segregate wireless customers and require only those customers to change their numbers.⁵ Wireless-only overlays also discriminate against wireless services by requiring that calls to wireless customers, but not others, utilize 10-digit dialing.⁶ Technology-specific overlays place the burden of exhaust on a single service, thus discriminating with respect to access to numbering resources, in precisely the manner Congress prohibited. Overlay plans that require wireless carriers to give back numbers in use by existing subscribers are particularly discriminatory. The Commission need not undertake any examination of competition between wireless and wireline carriers to uphold its previous decision prohibiting a wireless-only overlay.

Such overlays also “hinder entry into the telecommunications marketplace by failing to make numbering resources available on an efficient, timely basis to

⁴Id., para. 305. Since the Commission indicates that there are multiple policy objectives, Connecticut is incorrect to suggest that wireless/wireline competition is the sole basis for the prohibition on service-specific overlays. Petition at 6.

⁵Second Report and Order, 11 FCC Rcd 19392 (1996) (“Local Competition Second Order”), para. 285.

⁶Local Competition Second Order, para. 287.

telecommunications service providers.”⁷ The Commission’s decisions properly view the appropriate market as the telecommunications market as a whole, including paging companies and other wireless carriers who do not directly compete as LEC substitutes.

The basis for Connecticut’s Petition is its belief that the Ameritech Order, Local Competition Second Order, and other decisions of the Commission prohibiting such overlays were premised on the Commission’s belief that service-specific overlays would distort service competition between wireless and wireline providers.⁸ Whether wireless and wireline carriers are direct market competitors is irrelevant to whether service-specific overlays are discriminatory with respect to access to numbering resources.⁹

AirTouch supports Connecticut’s, and the Commission’s, interest in developing effective solutions to ameliorate the pace of NPA and NXX code exhaust. Lawful alternatives to wireless-only overlays should be explored. Connecticut attaches to its Petition a Decision of the DPUC summarizing the extensive work Connecticut has done on NPA exhaust issues. The Petition notes a variety of other measures, such as rate center consolidation, number pooling, and number portability techniques to delay

⁷Id., para. 305 (emphasis added).

⁸Petition at 5.

⁹Congress directed that the Commission establish equitable access to numbering resources for all “telecommunications carriers,” regardless of whether they are direct competitors or whether discriminatory access would distort market competition. 47 U.S.C. § 251(e)(1).

exhaust.¹⁰ These measures more directly address NXX code exhaust issues than would a wireless-only overlay.¹¹

“Number pooling” is not an mechanism to address NPA exhaust directly, but rather a process in which NXX codes within an NPA can be conserved. In number pooling, carriers would be assigned telephone numbers initially by an NXX-X code, representing a block of 1,000 numbers. Proposals to assign even smaller blocks are also under review. For carriers who are not able to fully utilize 10,000 number blocks, number pooling creates efficiencies in number utilization.

Wireless carriers have much higher utilization rates than other carriers, resulting in minimal efficiency gains from a number pooling scheme. Additionally, due to unique characteristics of wireless networks, including the integration of subscriber and handset identification numbers, and the need to support roaming, the costs of accomodating number pooling by wireless carriers far outweigh the benefits. Number pooling can still be utilized by wireline companies, based upon their utilization rates.¹² As AirTouch has

¹⁰“DPUC Review of Management of Telephone Numbering Resources in Connecticut,” Docket No. 96-11-10, Decision, February 18, 1998 (Attachment 1 to the Petition), at 43.

¹¹See Local Competition Second Order, para. 306 (“what extends the life span of a relief plan is not so much the wireless overlay as the introduction of a new NPA [and its additional NXX codes]”).

¹²Certain segments of the wireless industry are exploring the possibility of participating in number pooling, if appropriate.

previously stated to the Commission, AirTouch does not oppose number pooling *per se* so long as safeguards are in place that ensure all carriers have equitable access to numbers.¹³

For wireline telephone numbers, NXX codes are assigned to a particular rate center in an area code. Because of the rating and routing requirements of the wireline network, a carrier with a particular NXX can only serve customers associated with the rate center to which the NXX is assigned. Thus, a wireline carrier must obtain a distinct NXX for every rate center in an NPA in order to serve customers throughout that area. For example, even if a LEC is using only 10% of the numbers in a given NXX code it has been assigned, it must obtain another NXX code to serve customers in a different rate center. Typical NPAs have between 50 to 150 rate centers, and may have even more.

Wireless carriers also are assigned numbering resources in NXX blocks. However, wireless NXX codes are not restricted to use in a single rate center and can be assigned in whatever geographic scope the wireless carrier deems appropriate. Wireless numbers are associated with a particular wireline rate center - calls to a given wireless NXX code are treated for billing purposes as if they terminated in a particular rate center - but wireless carriers can assign numbers from a single NXX code as broadly as they wish within an NPA. Therefore wireless carriers typically use NXX codes much more efficiently than wireline carriers. AirTouch Cellular averages above 80% utilization rates. Given these


¹³See, e.g. Comments of AirTouch Communications, Inc. on Petition for Declaratory Ruling Filed by Providers of CMRS in Pennsylvania, NSD File No. L-97-42 (December 1, 1997), at 6.

facts, the Commission has a reasoned basis for permitting states to require some carriers, but not others, to implement number pooling.

CONCLUSION

Since the degree of wireless/wireline competition is not relevant to the statutory basis for the prohibition on wireless-only overlays, the Connecticut Petition should be denied. A wireless-only overlay that fails to provide for equitable access to numbering resources would violate the Communications Act. States can, however, implement number pooling requirements for those carriers whose networks are capable of doing so. Wireless carriers should not, however, be required to implement pooling. For wireless carriers, the costs are significant and the benefits minimal as wireless carriers already use numbers efficiently.

Respectfully submitted,


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